

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BILLY JOE PATTON §
v. § CIVIL ACTION NO. 6:06cv220
WARDEN COOK, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Billy Patton, proceeding *pro se*, filed this lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Patton's lawsuit complains of the adequacy of the law libraries at various prison units, as well as complaints about retaliation, harassment, lack of hot water and call buttons in the cells, and refusal to forward mail. He acknowledged in his complaint that he had not exhausted the available administrative remedies.

On June 13, 2006, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed with prejudice, for purposes of proceeding *in forma pauperis*, for failure to exhaust administrative remedies. Underwood v. Wilson, 151 F.3d 292, 296 (5th Cir. 1998). A copy of this Report was sent to Patton, but on June 16, 2006, the Court received a notice of change of address. The Report was re-mailed to Patton's new address, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and records in this cause, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice, for purposes of proceeding *in forma pauperis*, for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 1st day of September, 2006.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**